



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 8 1997

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

**MEMORANDUM**

**SUBJECT:** Delegation of Authority to Review Leases of Property at Department of Energy  
Weapon Production Facilities Under the Department of Energy Organization Act.

**FROM:** Timothy Fields, Jr. *Timothy Fields, Jr.*  
Acting Assistant Administrator

**TO:** Charlotte Northern, Director  
Human Resources Staff for OSWER and OECA  
Office of Human Resources and Organizational Services

The purpose of this memorandum is to request that the Human Resources Staff for OSWER and OECA start the Green Border review process for the attached draft delegation of authority which delegates the authority of the Administrator to review leases of property at Department of Energy (DOE) weapon production facilities to the Assistant Administrator for OSWER and Regional Administrators.

**Background**

The Defense Authorization Act of 1993, Pub. L. 103-160, amended the Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352, to allow the Secretary of Energy to lease real property and related personal property located at a DOE facility that is to be closed or reconfigured.

The Act requires that, before entering into the lease, the Secretary shall consult with the Administrator, with respect to property located on the National Priorities List (NPL), to determine whether the environmental conditions are such that leasing the property, and the terms and conditions of the lease agreement, are consistent with safety and the protection of public health and the environment. The Secretary must obtain the concurrence of the Administrator in this determination before entering into the lease. With respect to property located on a site that is not on the NPL, the Secretary must consult with and obtain the concurrence of the appropriate State official. The Secretary may enter into a lease without obtaining the Administrator's concurrence, if, within 60 days after the Secretary requests the concurrence, the Administrator



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fails to submit to the Secretary a notice of the Administrator's concurrence with, or rejection of, the determination.

Under the proposed delegation, the authority to review and concur (or non-concur) will be delegated to the Assistant Administrator for Solid Waste and Emergency Response and to Regional Administrators. The Assistant Administrator may redelegate such authority to the Office Director level. The Regional Administrators may redelegate this authority to the Division Director level, or equivalent, and/or the Associate Director for the Office of Superfund Programs in Region 3, the Deputy Director for the Waste Management Division in Region 4, the Associate Director for the Superfund Division in Region 5, and the Chief of the Federal Facilities Cleanup Branch in Region 9. This authority may not be further redelegated.

### **Justification**

The Department of Energy is currently engaged in efforts to downsize the DOE complex and clean up its weapons production facilities. Leasing unneeded components of the weapons production facilities may allow DOE to reduce overall administrative costs and may provide DOE with money rentals, which could be used by DOE to cover administrative expenses of such leases as well as provide for environmental restoration activities at the facility where the leased property is located. It also is intended that such leases will further and support economic development in the region around the DOE facility by creating or enhancing new business opportunities.

The attached delegation provides for delegation of the Administrator's authority to the Assistant Administrator of the Office of Solid Waste and Emergency Response and to Regional Administrators, subject to redelegation. The level selected as the floor in the "Redelegation Authority" section, and the language used, reflects recent reorganizations in the Regions, but otherwise are the same as that used in delegation 14-21-A for selection of remedial actions at federal facilities. This delegation to the Regions, and to the specified level of Regional management is appropriate for a number of reasons, including:

The requests by DOE will be site-specific and the Regions have first hand knowledge of the site conditions.

The complexity of the analysis required prior to concurrence is generally analogous to that in selection of remedial actions, a delegation previously approved by the Administrator and frequently exercised by the Regions at the specified floor level.

It serves to decentralize national decision-making.

It reduces or eliminates duplication of reviews.

It streamlines the concurrence process and requires less resources.

It provides flexibility to the Regional Administrators to redelegate, as they determine is appropriate.

It allows Headquarters to track concurrences (because of notification requirement) and serve as the national clearinghouse for the public.

Thank you for your assistance. If you have any questions or comments, please call me or have your staff call Seth Thomas Low at (202) 260-8692.

Attachment

cc: Jim Woolford, FFRRO  
Craig Hooks, FFEO  
Seth Low, FFRRO

## DEPARTMENT OF ENERGY ORGANIZATION ACT

### Lease of Property at Department of Energy Weapon Production Facilities.

1. AUTHORITY. Pursuant to the Department of Energy Organization Act, as amended by the Defense Authorization Act of 1993: to determine whether the environmental conditions of property on the National Priorities List under the control of the Department of Energy are such that leasing the property, and the terms and conditions of the lease agreement, are consistent with safety and the protection of public health and the environment.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATIONS. Regional Administrators or their delegates must notify the Assistant Administrator for Solid Waste and Emergency Response or his/her designee prior to exercising this authority, at the time the Federal agency formally requests the concurrence under section 3154(e)(2) of the Act.
4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response may redelegate this authority to the Office Director level. Regional Administrators may redelegate this authority to the Division Director level, or equivalent, and/or the Associate Director for the Office of Superfund Programs in Region 3, the Deputy Director for the Waste Management Division in Region 4, the Associate Director for the Superfund Division in Region 5, and the Chief of the Federal Facilities Cleanup Branch in Region 9.
5. ADDITIONAL REFERENCES. Section 120 of CERCLA and section 3154 of the Defense Authorization Act of 1993.